

DBDC, Dept of General Services 101 Monroe Street, 11 th Floor Rockville, Maryland 20850	RIGHT OF ENTRY AGREEMENT MONTGOMERY COUNTY, MARYLAND	401 Hungerford Drive Parking Garage Condition Construction CIP No. 0509514
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This RIGHT OF ENTRY AGREEMENT (“Agreement”), is made on this 1st day of March, 2023, by and between **PD 451 HUNGERFORD LLC**, a Maryland limited liability company (hereinafter referred to as “PD 451”) and **MONTGOMERY COUNTY, MARYLAND**, a body corporate and political subdivision of the State of Maryland (hereinafter referred to as the “County”).

RECITALS

- A. PD 451 is the owner of a certain property located in Montgomery County, Maryland described in a Plat of Subdivision entitled City Center as Lot 24, Block C at Plat No. 12541, and bearing Tax Account No. 04-01839664, located at 451 Hungerford Drive, Rockville, Maryland 20850 (the “PD 451 Property”).
- B. The County is the owner of a certain property adjacent to the PD 451 Property located at 401 Hungerford Drive, Rockville, Maryland 20850, described in Plat of Subdivision entitled City Center as Lot 25, Block C at Plat No. 15138 (the “County Property”).
- C. The County is desirous of obtaining from PD 451, and PD 451 is willing to grant to the County a limited right of entry over portions of the PD 451 Property to facilitate the County constructing improvements to the County Property.
- D. The right of entry will include use of parking spaces 1 through 10 for a period of six (6) months and parking spaces 11 through 16 for a period of two (2) months (the “Term”), together with access over and across the PD 451 Property to access the parking spaces (the “Right of Entry”). The area of the PD 451 Property comprising the Right of Entry is set forth on Exhibit A, attached hereto and incorporated herein.

E. The purpose of this Agreement is to formalize the grant of the Right of Entry.

NOW, THEREFORE, in consideration of the foregoing Recitals, each of which is incorporated into and made a part of this Agreement, and the mutual covenants of the parties set forth below, PD 451 and the County agree as follows:

1. Commencing on the Effective Date (as defined below), the County, inclusive of its contractors and agent, is hereby granted a Right of Entry on, over and across those areas of the PD 451 Property set forth in Exhibit A.
2. The County shall pay to PD 451 Seventy-Five Dollars and No Cents (\$75.00) per month, per parking space (the "Rent").
3. All employees, contractors, and agents of the County will exercise all normal and reasonable safety precautions in their exercise of the Right of Entry granted under this Agreement.
4. The County shall employ appropriate barricades, fences, signage, and other devices and measures of a type and in locations approved by PD 451, as normally and reasonably required for safety and without blocking circulation of the drive aisles.
5. No trash, debris, or litter will be left on the Property.
6. Upon completion of the project, the County shall restore all areas disturbed by the work to a condition at least equivalent to their state just prior to the grant of this Right of Entry (the "Return Condition").
7. The County anticipates commencing its construction improvements at the County Property on or about March 1, 2023.

8. The County shall indemnify PD 451 from all liens, liabilities, obligations, damages, penalties, claims, costs, charges and expenses, including attorney's fees and other costs that are awarded by a Court of Law, in connection with claims by third parties for property damage and injuries to persons ("Claims") occasioned by any negligent act or omission of the County while using the Property, exempting however any Claims arising from the gross negligence or willfull misconduct of PD 451. The indemnification given by the County in this Agreement is subject to, limited by and contingent upon the appropriation and availability of funds, and the notice requirements and damage limitations set forth in the Local Government Tort Claims Act, Md. Code Ann., Cts. & Jud. Proc. Sec. 5-301, et seq. (the "LGTC") and Md. Code Ann., Cts. & Jud. Proc. Sec. 5-5A-02 (collectively, the "County Indemnification Statutes"), all as amended. This indemnification is in no way intended to create any rights or causes of action in any third parties, or to increase the County's liability above the caps provided in the County Indemnification Statutes, as applicable.
9. The County will require all contractors who perform work on the PD 451 Property to carry insurance for the type of work being done in this locale, naming PD 451 Hungerford, LLC as an additional insured and will provide proof of such insurance to PD 451 prior to commencing work.
10. This Agreement shall terminate at the end of Term at which time the County shall vacate the PD 451 Property in the Return Condition.
11. The contents of this Agreement comprise the entire agreement between the parties hereto, and this Agreement may not be amended, altered or modified except in writing executed by both parties.
12. Nothing in this Agreement shall be construed to create between the County and PD 451 the relationship of co-partners or creating or establishing the relationship of a joint venture by or between the County and PD 451, or as constituting PD 451 as the agent or representative of the County for any purpose or in any manner under this Agreement, it being understood that

PD 451 is a separate entity.

13. This Agreement shall be governed by the laws of the State of Maryland.

14. Any notice or communication under this Agreement by or between the County and PD 451 shall be sufficiently given or delivered if dispatched by either (a) certified mail, postage prepaid, return receipt requested, (b) nationally recognized overnight delivery service, (c) hand-delivery (if receipt is evidenced by a signature of the addressee or authorized agent), or (d) telecopy or facsimile transmission (provided that such notice sent by facsimile is also sent via nationally recognized overnight courier for guaranteed next business day delivery), and addressed:

in the case of a notice or communication PD 451, as follows:

PD 451 Hungerford LLC
c/o Promark Partners
451 Hungerford Drive, Suite 700
Rockville, MD 20850

in the case of a notice or communication to the County, as follows:

Montgomery County, Maryland
101 Monroe Street, 2nd Floor
Rockville, MD 20850
Attn: County Executive

With a copy to:

Office of the County Attorney
101 Monroe Street, 3rd Floor
Rockville, MD 20850
Attn: County Attorney

and

Montgomery County Department of General Services
101 Monroe Street, 9th Floor
Rockville, MD 20850
Attn: Director

Either party may change its address for the service of notice by giving written notice of such change to the other party, in any manner above specified.

15. The Effective Date of this Agreement is the date of the last signature to the Agreement.

16. The County's obligation to pay Rent under this Agreement is subject to, limited by, and contingent upon the appropriation and availability of funds.

IN WITNESS HEREOF, each of the parties hereto has caused this Right of Entry Agreement to be executed by their duly authorized representatives as follows:

PD 451 Hungerford LLC

By: 

Robert L Eisinger

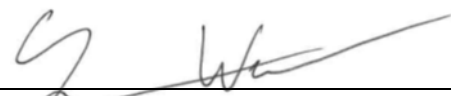
Printed Name

Manager

Title

MONTGOMERY COUNTY, MARYLAND


Witness

By: 
Yaakov Weissmann,
Assistant Chief Administrative Officer

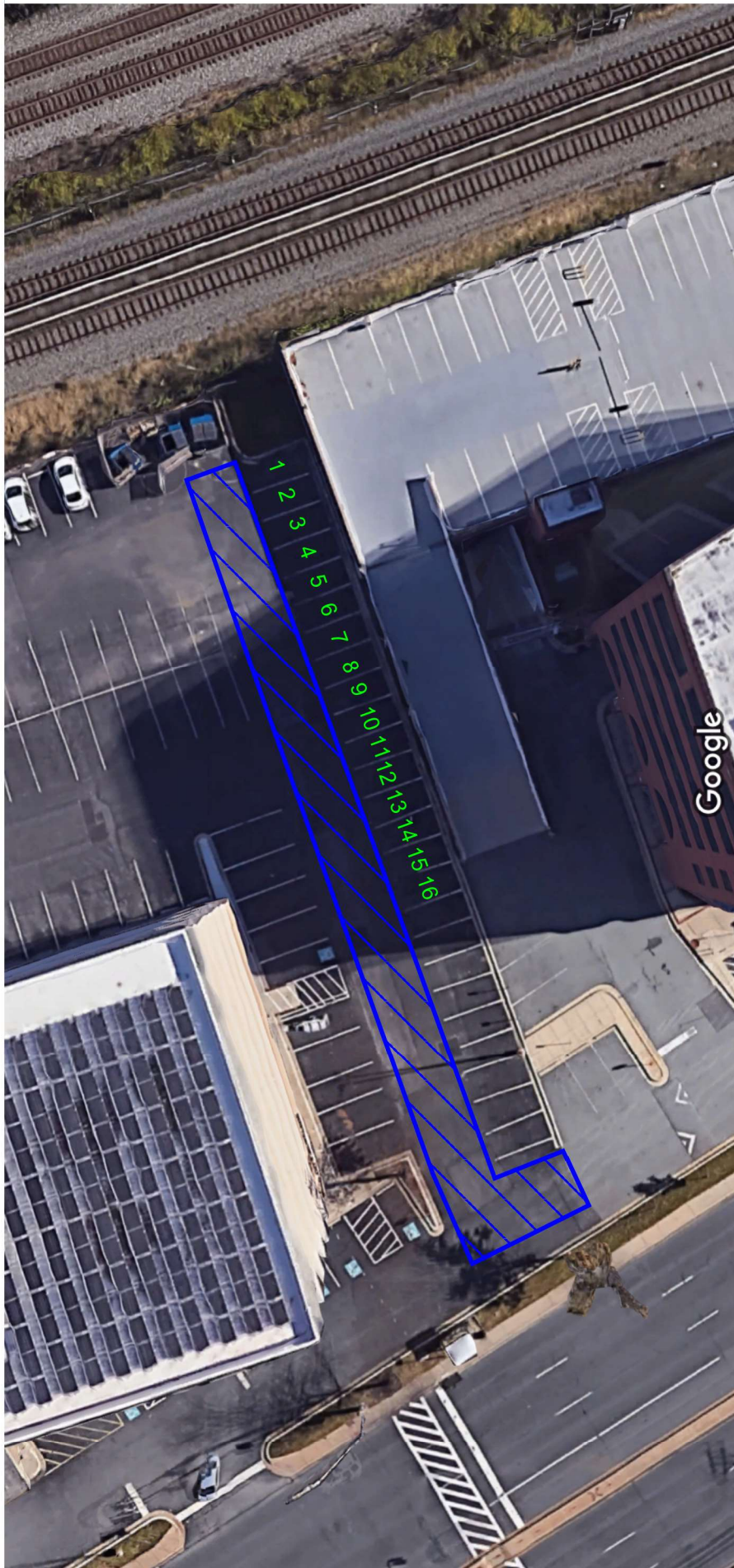
**APPROVED AS TO FORM & LEGALITY
OFFICE OF THE COUNTY ATTORNEY**

By: Neal Anker
Neal Anker, Associate County Attorney

Date: 2/24/2023

EXHIBIT A - PARKING SPACES TO USED DURING CONSTRUCTION

Google Maps 451 Hungerford Dr



Imagery ©2023 Google, Map data ©2023 20 ft

The **GREEN** numbered parking spaces indicated on this Exhibit designate the Parking Spaces subject to this Right Of Entry Agreement.

The **BLUE** hatched area designates access to the rented parking spaces.